

D.P.U. 95-23-A

Petition of Mass-Save, Inc., to revise 220 C.M.R. § 7.07 to provide residential and commercial energy conservation program announcements on a year-round basis.

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APPEARANCE: James K. Brown, Esq.  
Foley, Hoag & Eliot  
One Post Office Square  
Boston, Massachusetts 02109-2170  
FOR: MASS-SAVE, INC.  
Petitioner

## I. INTRODUCTION

On January 26, 1995, Mass-Save, Inc. ("Mass Save"), an independent, non-profit corporation sponsored by investor-owned electric and gas utilities and municipal light departments in Massachusetts, filed with the Department of Public Utilities ("Department"), pursuant to G.L. c. 30A, §§ 2, 3 and 4, a petition to revise 220 C.M.R. § 7.07 ("Petition"). Mass Save provides energy conservation services under plans designed by utilities and approved by the Massachusetts Division of Energy Resources ("DOER") pursuant to the "Residential and Commercial Energy Conservation Program". Mass Save has proposed that 220 C.M.R. § 7.07 be revised in order to allow utilities to issue Energy Conservation Service ("ECS") program announcements on a year-round basis rather than only between the months of July and November.<sup>1</sup>

In response to the Petition, and pursuant to 220 C.M.R. §§ 2.00 et seq., on March 14, 1995, the Department voted to open a rulemaking proceeding ("Order"). The Order proposed an amendment to 220 C.M.R. § 7.07 ("Proposed Regulation") and required the Secretary of the Department ("Secretary") to transmit an attested true copy of the Proposed Regulation to the Secretary of State of the Commonwealth for publication in the Massachusetts

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<sup>1</sup> In response to the mandates of the National Energy Conservation Policy Act of 1978, the Commonwealth of Massachusetts enacted St. 1980, c. 465, codified as G.L. c. 164 App., §§ 2-1 through 2-10, to establish the ECS program and to require all electric and gas utilities in Massachusetts to offer on-site energy conservation and renewable energy resource services to their customers, thereby encouraging citizens to take steps immediately to improve the energy efficiency of all residential buildings in Massachusetts. G. L. c. 164 App., § 2-2. The statute requires each utility to provide certain energy conservation services through individual or joint efforts in conformance with an overall state plan. Id.

Register. In addition, the Secretary, pursuant to 220 C.M.R. § 2.04, published notice of the rulemaking proceeding ("Notice"), in which all interested persons were provided an opportunity to submit a signed letter, brief or other memorandum stating their views or arguments concerning the Proposed Regulation no later than April 24, 1995. Mass Save, DOER, Bay State Gas Company ("Bay State"), Boston Gas Company ("Boston Gas"), Cambridge Electric Light Company and Commonwealth Electric Light Company ("Cambridge/COM Electric"),<sup>2</sup> Commonwealth Gas Company ("COMGas") and Eastern Edison Company ("Eastern") (collectively, "Commenters") filed comments on the Proposed Regulation.

## II. DISCUSSION AND ANALYSIS

All the Commenters supported the Proposed Regulation which would extend the ECS program announcement mailing schedule over the full fiscal year (DOER Comments at 2, 4, 5; Bay State Comments at 1; Boston Gas Comments at 1; Cambridge/COM Electric Comments at 1; COMGas Comments at 1; Eastern Comments at 1; Mass Save Comments at 3). None of the Commenters suggested any changes to the language of the Proposed Regulation.

At present, 220 C.M.R. § 7.07 requires that utilities provide notice to customers of the ECS program in announcements sent to customers at least once within the five-month period of July through November (see Mass Save Comments at Exh. 1). Moreover, under the current regulations governing the ECS program, utilities must provide services to customers within thirty

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<sup>2</sup> Cambridge Electric Light Company and Commonwealth Electric Company jointly submitted one set of comments.

days of receipt of the request for ECS program services<sup>3</sup> (see DOER Comments at 2, 3). Several Commenters noted that compliance with 220 C.M.R. § 7.07 creates a high demand for services during a short time period (October, November and December), with a substantially lower demand for ECS audits occurring during the remainder of the year (DOER Comments at 1; Bay State Comments at 1; Boston Gas Comments at 1; Cambridge/COM Electric Comments at 1; COMGas Comments at 1; Eastern Comments at 1; Mass Save Comments at Exhs. 2, 3, 4). Mass Save stated that this high short-term demand creates a backlog of requests for service, which, at its peak, is comprised of over ten thousand customers (Mass Save Comments at 1, 2). All the parties that filed comments concluded that the Proposed Regulation could eliminate this imbalance in demand and levelize requests for ECS audits (see e.g., Mass Save Comments at 3; DOER Comments at 4).

The Commentors noted several benefits that would result from implementation of a twelve month notification period including that:

- (1) administrative costs would generally be reduced (i.e., auditor recruitment and

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<sup>3</sup> A utility shall routinely perform audits within 30 days of the customer request. The backlog of audit requests shall not exceed 60 days. If the backlog exceeds 60 days, the utility shall report this fact to the Commissioner and petition him/her for an exemption. Exemptions may be granted when necessary, as in periods of unusually high audit demand, provided that the utility agrees to take suitable action to reduce the audit backlog to less than 60 days. Such action may include contracting for or hiring additional auditors or expanding the number of auditor shifts. In such a situation, the utility shall notify customers who have requested audits of the delay in audit delivery. Utilities shall inform DOER of the steps taken to reduce the backlog and of efforts made to inform customers of the delay in audit delivery. Following the initial report of a backlog, the utility shall report updated information to DOER on a scheduled basis as determined by DOER. 225 C.M.R. § 4.07(1)(a).

training, mailings to backlogged customers and telemarketing expenses);

(2) the auditors' workload would become stabilized which could improve the quality of their services;

(3) with levelized mailings and telemarketing, utilities could obtain a more accurate picture of the actual market for ECS services and respond to DOER's goals for each utility's program; and

(4) because the audit would be delivered much closer to the time when a customer requests the service, it is more likely that the customer would be more satisfied and make better use of the audit information that ECS provides, and the number of customer requests for deactivation (due to a delay between a request for services and its actual delivery) could diminish.

(See e.g., Mass Save Comments at 2, 3; DOER Comments at 3, 4, 5)

In response to the petition of Mass-Save, Inc. and in light of the responses of the Commenters in support of the Proposed Regulation, the Department finds that the Proposed Regulation is reasonable and in the public interest.

III. ORDER

Accordingly, after due notice and consideration, it is

ORDERED: that pursuant to G.L. c. 30A § 5 and 220 C.M.R. §§ 2.00 et seq., the amendment to 220 C.M.R. § 7.07, attached hereto, be ADOPTED; and it is

FURTHER ORDERED: that the Secretary of the Department attest to a true copy of the amendment to 220 C.M.R. § 7.07 and transmit said attested true copy to the Office of the Secretary of State for the Commonwealth for publication in the Massachusetts Register; and it is

FURTHER ORDERED: that this regulation shall take effect upon publication in the Massachusetts Register.

By Order of the Department,

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Kenneth Gordon, Chairman

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Mary Clark Webster, Commissioner

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Janet Gail Besser, Commissioner

## 220 CMR: DEPARTMENT OF PUBLIC UTILITIES

### 7.07: Rate Treatment

The monthly or bi-monthly surcharge calculated in accordance with 220 CMR 7.06 shall be incorporated into the first block or step of each gas or electric company's rates or, where appropriate, such surcharge shall be incorporated into the monthly (or bi-monthly) customer charge.

An explanation of the ECS program shall be printed on a separate bill insert as approved by the Department and provided at least once each year to every customer of record, and to every customer of record when the customer is initially billed for service. The schedule for distribution of the ECS program inserts shall be filed in the Utility Implementation Plan at the time that the utility files its annual Utility Implementation Plan with the Division of Energy Resources.